CERTIFICATES OF QUALIFICATION FOR EMPLOYMENT AND THE CIVICC DATABASE

Using CQEs to Remove Employment Barriers

September 16, 2016 | Sponsored by the Franklin County Re-entry Coalition

Presenter:

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RESTORING JUSTICE RECLAIMING

RENEWING COMMUNITIES



Under a new Ohio law, employers can hire, promote, and retain well-qualified, motivated workers to fill their staffing needs without fearing legal barriers and liabilities.

* This presentation is about adult criminal records in Ohio and barriers in Ohio state law.



Seeking Employment?

Approximately 90% of potential employers conduct background check of job applicants.

The presence of any criminal record lowers the chances of even being called back by a potential employer by 50%.

The presence of a felony conviction lowers the chances of being hired even further.

Formerly incarcerated persons make 40% less than before they were incarcerated.



Barrier: Negative perception

Collateral Consequences = Civil Impacts of a Criminal Convictions

- ► Laws and regulations that restrict people with criminal records
- ► Does not include imprisonment, fine, any form of supervision, or costs
- ► Includes mandatory and discretionary consequences affecting employment, housing, education, family, and civic-participation
- **▶** Could be federal or state



- ▶ 1.92 million 1 in 6 Ohioans have a felony or misdemeanor conviction.
- ▶ 1 in 3 people have a record in the FBI database.
- ► Many laws restrict people with criminal records. Today, the CIVICC database contains over 800+ criminal-records-based barriers in Ohio law.
- ► Over 600 Ohio laws limit access to employment / professional licensing.



Professional licensing and employment laws regulate many occupations....

barbers/cosmotologists, healthcare professionals, engineers, embalmers, waste management workers, real estate professionals, mortgage lenders, casino workers, childcare providers, contractors, security guards, and many others.



There are several legal tools for overcoming criminal-record-based barriers

Record sealing, expungement, pardons, ... CQES!



What are CQEs?

Two legal effects

- 1. Removes legal barriers to employment; converts mandatory civil impacts into a discretionary ones; only for barriers in Ohio laws, not federal laws; only records in Ohio
- 2. Protects employer from negligent-hiring liability

A Certificate does NOT hide or erase a criminal record



How do these certificates benefit employers?

1. Allow Employers Discretion to Hire

- *Discretion* to individually assess an applicant's suitability
- Treat applicants with records like any other applicant: evaluated based on his or her qualifications

The CQE does not guarantee the job or license.

It *allows*, but *does not require*, the agency to let you into this field of employment.



How do these certificates benefit employers?

2. Protect Employers from Negligent-Hiring Liability

- #1 reason employers run criminal-record checks and do not hire people with criminal records.
- Employer "knew or should have known" that the employee was dangerous.
- The CQE creates immunity from negligent-hiring lawsuits because a judge says the CQE-holder is not a dangerous person.



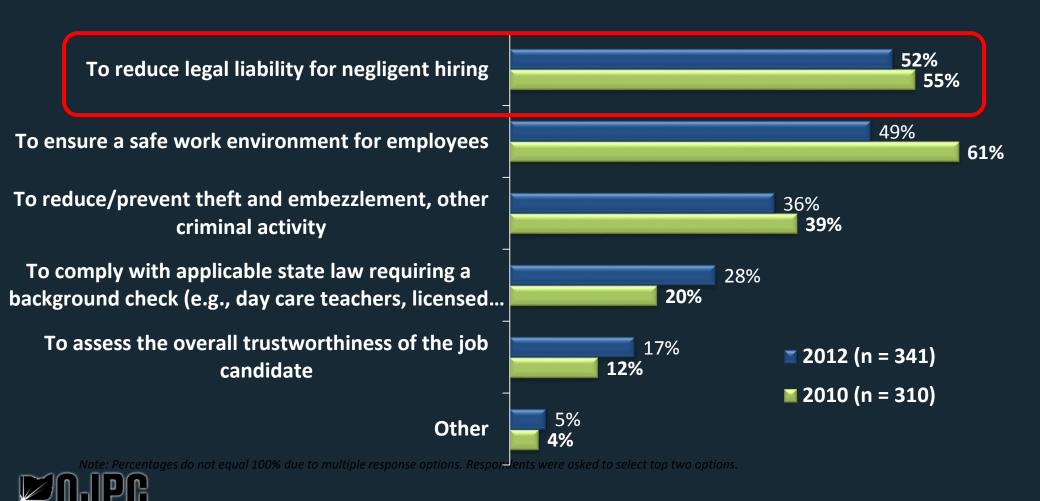
How do these certificates benefit employers?

3. Expand the Pool of Qualified Candidates

Economic research suggests that Ohio is losing \$2 billion GDP annually due to workers who are otherwise qualified being excluded by over-restrictive criminal-record-based barriers.



What are the <u>primary</u> reasons your organization conducts <u>criminal background</u> checks on job candidates?



Certificate of Qualification for Employment (CQE)

- For people out in the community
- Must name specific civil-impact she or he want relief from
- Granted by a Court of Common Pleas where the applicant resides
- No limit on types of offenses or number of offenses



Certificate of Achievement & Employability (CAE)

- Same two legal effects as the CQEs
- Only for inmates with less than 1 year left or currently on PRC/parole
- Granted by DRC
- Must have completed various kinds of programming in prison



To apply for a CQE, there is a lengthy, multi-part form to complete. You may need an attorney's advice to answer some of the legal or technical questions.

Before you begin: Are you allowed to apply? Will a CQE help you?

- You must wait 6 months from the end of your last misdemeanor sentence or 1 year from the end of your last felony sentence.
- CQEs are not effective if you have a federal offense or are trying to overcome a federal-law job barrier.
- CQEs are not effective in certain fields.



Eligibility: Limited exclusions

- Employment with law enforcement or prosecutor's office
- Employment at a pain clinic
- Sex-offender registration and related duties
- Certain driver's license suspensions



Eligibility:

Limited exclusions

A CQE cannot be used to obtain a *healthcare license* if a person has the following convictions:

2903.01 Aggravated murder

2903.02 Murder

2903.03 Voluntary manslaughter

2903.11 Felonious assault

2905.01 Kidnapping

2907.02 Rape

2907.03 Sexual battery

2907.05 Gross sexual imposition

2909.02 Aggravated arson

2911.01 Aggravated robbery

2911.11 Aggravated burglary

2919.123 Unlawful distribution of

an abortion-inducing drug



Eligibility: Limited exclusions

Some healthcare fields place additional restrictions on hiring CQE-holders.

Community long-term care providers Home health care agencies **Medicaid waiver service providers Supported living providers**

MHAS residential facilities **Medicaid waiver service providers**



Identify Barriers

To apply for a CQE, there is a lengthy, multi-part form to complete. You may need an attorney's advice to answer some of the legal or technical questions

Step 1

Identify your job barriers to employment

- Think through the kinds of jobs for which you qualified and where you want to work
- Gather info about *all* your criminal offenses
- Use http://CIVICCohio.org to pinpoint the laws that are creating job barriers for you.



Identify Barriers

Consider where you want to work

- What jobs have you had in the past?
- What field of employment do you want to work in?
- What school or training are you in, or have you gone to, for a particular kind of job?
- What special license, degree, or certification do you need to get the job you want?



Identify Barriers

Get a copy of your record...

Online, countywide background check,

http://fcdcfcjs.co.franklin.oh.us/CaseInformationOnline/

FBI/BCII, etc.

Municipal Courts:

http://www.fcmcclerk.com/case/

http://web1.civicacmi.com/Whitehall/Court/Default.aspx

etc



Collateral Consequences & the CIVICC database

How to use the Ohio Civil Impacts of Criminal Convictions (CIVICC) Database



What is CIVICC?

Searchable online database of all the civil impacts of criminal convictions under Ohio law

http://CIVICCohio.org

Jobs, housing, financial, family, civic participation, recreation, etc.

Not "criminal" punishment



What is CIVICC?

Searchable online database for answering two questions

specific criminal convictions





CIVICC does not include

- Offenses OR civil impacts created by:
 - ► Local ordinances
 - ► Federal law or
 - ► The laws of other states
- Impacts related to immigration
- Impacts based in traffic violations
- Motor vehicle and vehicle licensing impacts....working to add these
- Sex offender registration and monitoring....working to add these too

We are updating it as time goes on ... laws change ... and this is just a general research tool, not legal advice!



What is CIVICC?

Accurate answers at the right moments

- 1. Schools, colleges, & students admissions, career placement
- 2. Employers & applicants confirming eligibility
- 3. Workforce development selecting training programs; job placement



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- Agree
- Disa^d ee





Begin Search Civil Impacts Offenses Search By Offense Search By Code Section Ohio Revised Code section: Search Example: "2903.11" or "2925." OR Search By Keyword Keyword: theft Search Example: "theft" or "assault"





Search Results

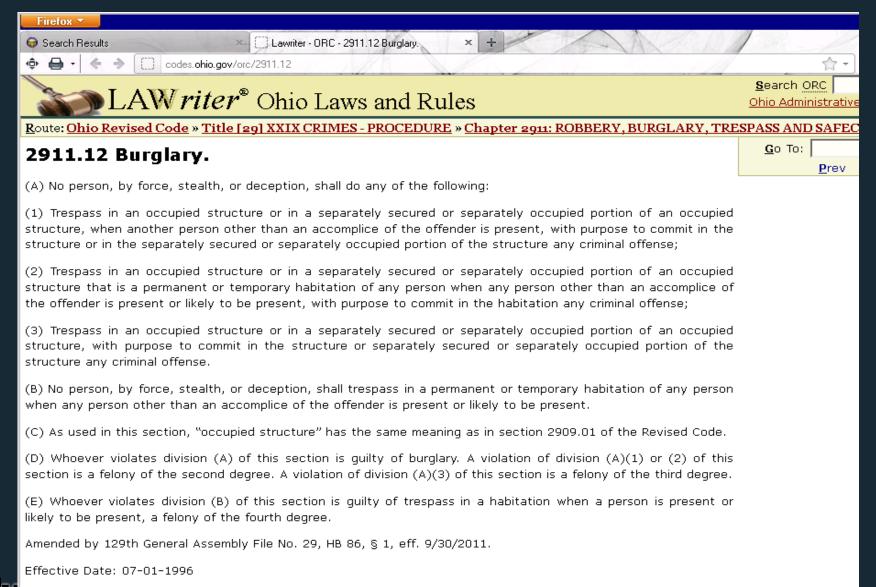
Results for your search: Offense keyword theft

Offenses

Source	Link	Offense Name	View Details	
ORC 2911.01	2911.01	Aggravated robbery	Offense Detail	^
ORC 2911.02	2911.02	Robbery	Offense Detail	
ORC 2911.11	2911.11	Aggravated burglary	Offense Detail	
ORC 2911.12(A), (D)	2911.12	Burglary	Offense Detail	
ORC 2911.12(B), (E)	2911.12	Trespass in a habitation when a person is present or likely to be present	Offense Detail	
ORC 2911.13	2911.13	Breaking and entering	Offense Detail	
ORC 2911.31	2911.31	Safecracking	Offense Detail	
ORC 2911.32	2911.32	Tampering with coin machines	Offense Detail	+
Showing 1 to 48 of 48 entries				









Search Results

Results for your search: Offense keyword theft

Offenses

Source	Link	Offense Name	View Details	
ORC 2911.01	<u>2911.01</u>	Aggravated robbery	Offense Detail	
ORC 2911.02	2911.02	Robbery	Offense Detail	=
ORC 2911.11	2911.11	Aggravated burglary	Offense Detail	
ORC 2911.12(A), (D)	2911.12	Burglary	Offense Detail	
ORC 2911.12(B), (E)	2911.12	Trespass in a habitation when a person is present or likely to be present	Offense Detail	
ORC 2911.13	2911.13	Breaking and entering	Offense Detail	
ORC 2911.31	<u>2911.31</u>	Safecracking	Offense Detail	
ORC 2911.32	2911.32	Tampering with coin machines	Offense Detail	+
Showing 1 to 48 of 48 entri	ies			





Offense Detail

Offense Detail for:	ORC 2911.12(A), (D) Burglary	
Link:	2911.12	
Offense Category(s):	Dishonesty-Theft offense; Moral turpitude-can be Violence or Mora	l Turpitude per ORC
Offense Level - Minimum:	Felony, 3rd degree	
Offense Level - Maximum:	Felony, 2d degree	
Offense Tag Words:	larceny	
Victim Always Involved:		
Minimum Sentencing Requirements:		
Related Authorities:	ORC 2901.01(A)(9); ORC 2913.01(K)(1)	
Last Amended Date:	9/30/2011	
First Effective Date:		

New Search

569 Impacts

Export To Excel

Search:							
Source	Link ≎	Context	Impact Summary	Impact Category	Impact Type	View Details	
ORC173.27(B)(3)	173.27	Dept. of Aging	Employment with long-term care ombudsman program	Employment	Mandatory, CR check	Impact Detail	
OAC5122-30-31(D) (1)(a)-(b)	<u>5122-30-</u> <u>31</u>	Dept. of Mental Health and Addiction Services	Employment with a licensed residential facility permanent bar	Employment	Mandatory, CR check	Impact Dotail	
ORC3301.32(B)(1) (a)	3301.32	Dept. of Education	Employment with head start agency	Employment	Mandatory, (R check	Impact Detail	
ORC3301.541(B)(1) (a)	3301.541	Dept. of Education	Employment with a preschool program	Employment	Mandatory, CR check	<u>Detail</u>	
ORC2151.86(C)(1)	2151.86	Juvenile Courts	Appointment to care for a child in "out-of-home care"	Employment	Mandatory, CR check	Impact Detail	~

Showing 1 to 569 of 569 entries

This information is not legal advice. Users should verify the information independently and check for frequent changes in the law.

Impact Detail

Impact Detail for: ORC 3301.32(B)(1)(a) Employment with head start agency

Description: A criminal records check is required of an applicant who is under final consideration for employment with a head start agency. An applicant who "has been convicted of or pleaded guilty to" a listed offense cannot be employed by the agency "as a person responsible for the care, custody, or control of a child." Exception: if the applicant meets "rehabilitation" standards" set by ODJFS rules.

Link: 3301.32

How Imposed: Mandatory, CR check

Duration: Permanent, subject to possible exception

Exception Link: http://codes.ohio.gov/oac/5101%3A2-12-26

Related Authorities:

Impact Tag Words: child care, childcare, day care, daycare

Last Amended Date: 6/30/2005 First Effective Date: 7/1/2000 Impact Type: Employment

New Search

51 event[s] can trigger this impact:

Search:						
Case outcome	Offense type	\$	\$	Even if sealed or expunged?	View Details ≎	
Conviction including guilty plea	ORC 2903.11	Felonious Assault	2903.11	Yes	<u>Trigger</u> <u>detail</u>	î
Conviction including guilty plea	ORC 2903.01	Aggravated murder	2903.01	Yes	<u>Trigger</u> <u>detail</u>	
Conviction including guilty plea	ORC 2903.02	Murder	2903.02	Yes	<u>Trigger</u> <u>detail</u>	
Conviction including guilty plea	ORC 2903.03	Voluntary manslaughter	2903.03	Yes	<u>Trigger</u> <u>detail</u>	
Conviction including	ORC 2903.04	Involuntary manslaughter	2903.04	Yes	<u>Trigger</u>	-

Showing 1 to 51 of 51 entries



This information is not legal advice. Users should verify the information independently and check for frequent changes in the law.

For more info

See the CIVICC USER GUIDE:

CIVICC USER GUIDE April 17, 2013



OHIO JUSTICE & POLICY CENTER Reclaiming Lives. Renewing Communities. Restoring Justice.

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The Ohio CIVICC Database USER GUIDE

Frequently Asked Questions

Click on a question below to jump to its answer.

INTRODUCTORY OUESTIONS

- 1. What are "civil impacts of criminal convictions"?
- 2. What is the CIVICC database?
- 3. What can I accomplish by using CIVICC?
- How complete is the CIVICC database?
- 5. How accurate is the information in CIVICC?
- 6. Is the database information up to date?

CONTENTS OF THE CIVICC DATABASE

- 7. What information is the CIVICC database designed to include?
- 8. What kinds of information are NOT in the CIVICC database?
- 9. How are Offenses defined in CIVICC?
- 10. How are Offenses classified in CIVICC?
- 11. How are Civil Impacts defined in CIVICC?
- 12. How are Civil Impacts classified in CIVICC?
- 13. Does the CIVICC database include background check, disclosure, and "good moral character" requirements?
- 14. Does the CIVICC database include civil impacts imposed by federal laws?

SEARCHING THE CIVICC WEBSITE

- 15. How do I conduct a search on the CIVICC website?
- 16. How does the "search by keyword" feature work?
- 17. What if I want to know the civil penalties attached to an offense, but I don't know the exact name or section number of the offense?
- 18. How can I find civil impacts that can be triggered by any felony conviction?



Online Application

To apply for a CQE, there is a lengthy, multi-part form to complete. You may need an attorney's advice to answer some of the legal or technical questions

Step 2-5

Apply for a CQE online

- You can submit your application using DRC's website for CQE applications:
- https://drccqe.com.
- GET HELP IF NEEDED



Online Application





System Login

Welcome to the Ohio Certificate of Qualification for Employment (CQE) online website

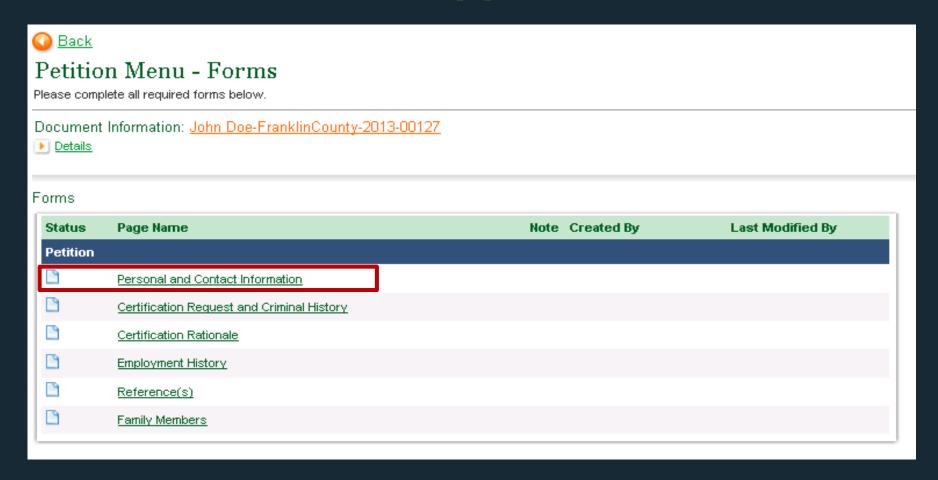
Senate Bill 337 became effective September 29, 2012, and created a "Certificate of Qualification for -Employment" in Obje Revised Code 2052 25. The COE will allow persons living it the community

who have a previous felony or misdemeanor conviction to apply to the court to lift the collateral sanction that bars them from being considered for employment in a particular field. A collateral sanction is a penalty, disability, or disadvantage that is related to employment or occupational licensing as a result of a conviction of or plea of guilty to an offense and that applies by operation of law in this state regardless if the penalty, disability, or disadvantage is included in the sentence or judament.

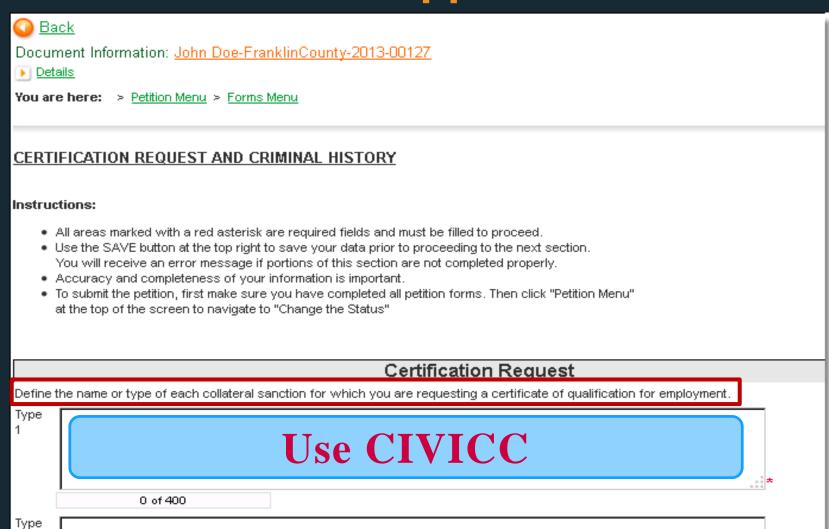
This website will permit an individual who is subject to collateral sanction complete an online petition and submit the petition to the Department of Rehabilitation and Correction for review prior to filing the petition with an Ohio County Common Pleas Court.

To complete a CQE petition an individual must list a collateral sanction related to their offense. To find collateral sanctions relating to an offense please visit the Ohio Civil Impacts of Criminal Convictions (CIVICC) Database, www.opd.ohio.gow/CIVICC. This site, created by the Ohio Justice & Policy Center and the Ohio Public Defender, is a free web-based tool to learn more about the collateral consequences (sanctions) of conviction in Ohio.

Login
Username
Password
LOGIN
New User? Forgot Password?









"Any collateral sanctions limiting employment or licensing in the healthcare field, nursing, elder care (hospice, nursing home), MR/DD care, in-home direct care, and related jobs. This includes, but is not limited to:

- -OAC 5122-30-31 Residential facility employee for Dept. of Mental Health and Addiction Services
- ORC 5123.081 Direct-services employee of provider or subcontractor for the Dept. of Developmental Disabilities; employee of state department or county board
- ORC 173.38 Employment in direct care position to provide community-based long-term care
- -ORC 173.381 Certification as self-employed long-term care provider
- -ORC 3701.881 Employment with a home health agency to provide direct care for an individual
- -ORC 5164.342 Employment with an "agency provider" of medicaid waiver services

Also, any collateral sanctions limiting employment or licensing in the childcare field and jobs that involve direct care or services for children. This includes, but is not limited to:

- -ORC 3319.20 Non-licensed school employee
- ORC 5104.09 Ineligibility to own or operate family day care home; ineligibility for employment or license with child day-care center or family day care home
- -ORC 5153.111 Ineligibility for employment with a public children services agency

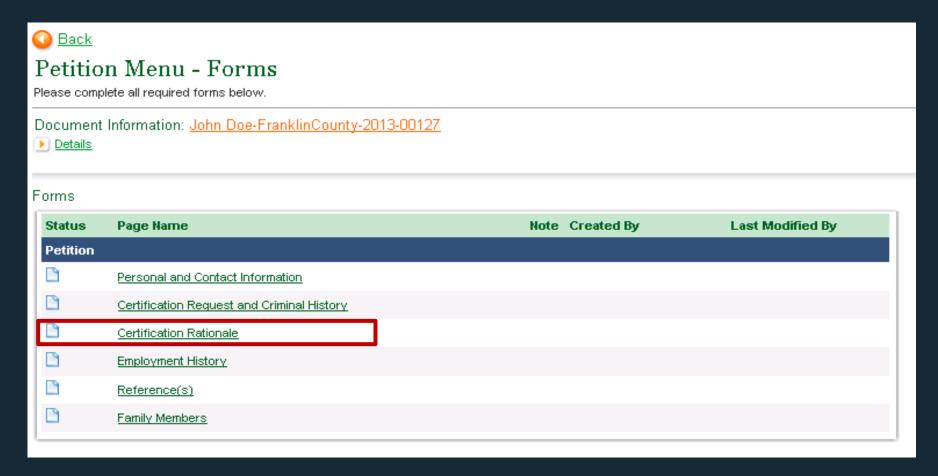
And any other collateral sanctions limiting my employment."

You may need to split up responses to accommodate character limits in the online application.



Provide a description of how you intend to use the certificate of qualification of employment if granted.
·
1. Do you intend to use the certificate to obtain an occupational license from a state licensing board? *
O Yes O No
If Yes, indicate the type of occupational license and which State of Ohio licensing board:
Occupation
Licensing Board
2. Do you intend to obtain employment and use the certificate as a means to provide potential employers with immunof the Revised Code? *
● Yes ○ No







Must explain to court that:

- CQE will materially assist the individual in obtaining employment or occupational licensing.
- Individual has a **substantial need** for the relief requested in order to live a law-abiding life.
- Granting the CQE would **not pose an unreasonable risk** to the safety of the public or any individual.





1. Define the reasons you believe the certificate of qualification for employment should be granted:

- Employment goals
- How does your record create barriers?
- Positive things you have done (SCHOOL, EDUCATION,
 volunteering, drug rehab programs, job programs, education
 programs, good standing while on parole or in jail, participation
 in religious programs, etc.)





2. Define why a certificate will <u>materially assist</u> you in obtaining employment or occupation licensing:

- Denied a job or promotion because of your criminal record
- Negative changes in your employment, especially after record
- Laws that prevent you from working in a particular field





3. Define why you have a substantial need for a certificate in order to live a law-abiding life:

- Past experience in, or passion for, a particular employment field
- Investment of time and/or money in pursuing education or other training
- Better wages, more hours of work, better benefits, or a promotion
- Ability to support your children or other family members





4. Describe why granting the petition would <u>not pose an unreasonable risk</u> to the safety of the public or any individual:

- Violent offenses? Record from long ago?
- Ways you improved your life and contribute to the community, e.g., volunteering
- Offense-related programs (drug rehab, anger management training, parenting class)
- What was going on in your life at the time of the offenses and how you have separated yourself from that lifestyle or situation?
- Important situations where people have trusted you and nothing has gone wrong
- Success in jobs and internships
- Success in school, extra curricular activities, clinics, classes, etc.



Petition Menu - Forms

Please complete all required forms below.

Document Information: John Doe-FranklinCounty-2013-00127



<u>Details</u>

Forms

Status	Page Name	4
Petition		
≥	Personal and Contact Information	
0	Certification Request and Criminal History	
>	<u>Certification Rationale</u>	
	Employment History	1
	Reference(s)	j
<u></u>	Family Members	1



Filing in Court

Step 6

Wait for approval, then file in court

- Department of Rehabilitation and Corrections screens the CQE applications submitted online. Wait for an email indicating that they are satisfied that your application is complete.
- Print off the complete application from https://drccqe.com and file it in the court of common pleas for the county where you live.
- Attach <u>SUPPORTING DOCUMENTS</u> (awards, transcripts, GEDs, letters of recommendation)
- The court for each county has a different filing fee. Indigency fee waivers are available.



Filing in Court

"The court may order any report, investigation, or disclosure by the individual that the court believes is necessary for the court to reach a decision."

Step 7

Court investigation and possible hearing

- The court will gather information from every other Ohio court where you have a conviction. There is no time limit on the investigation process.
- After the court completes it's investigation, it has 60 days within which to make a decision.
- The prosecutor may object and may also seek input from any crime victims from your past offenses.
- The court may also chose to hold a hearing.



Certificate of Qualification for Employment (CQE)

In Franklin County...

CQEs fall under the Court of Common Pleas Local Rule 98. CQE Petitions are ordinarily assigned to the Duty Judge for the week in which the Petition was filed. For good cause shown, and with the approval of the Administrative Judge, a Petition can be reassigned to the Common Pleas judge who most recently had a civil or criminal proceeding with the petitioner.

There's an investigation by Probation and input from past judges.



Decision Time

When the court is done with its investigation, by law, it has 60 days to make a decision about granting the CQE.

- If the CQE is GRANTED: You can print your Certificate from https://drccqe.com. You or any employer can verify the current validity of your CQE at http://www.drc.ohio.gov/web/cqe.htm.
- If the CQE is DENIED: You can appeal. The court may put conditions on your reapplying, such as completing certain programs or waiting longer to demonstrate your rehabilitation.



Next Steps

~You have a CQE~

- Resume
- Job Applications
- A CQE is automatically revoked and invalid if a felony is committed.



Recent study

An Experimental Study of the Effectiveness of Certificates of Recovery as Collateral Consequence Relief Mechanisms

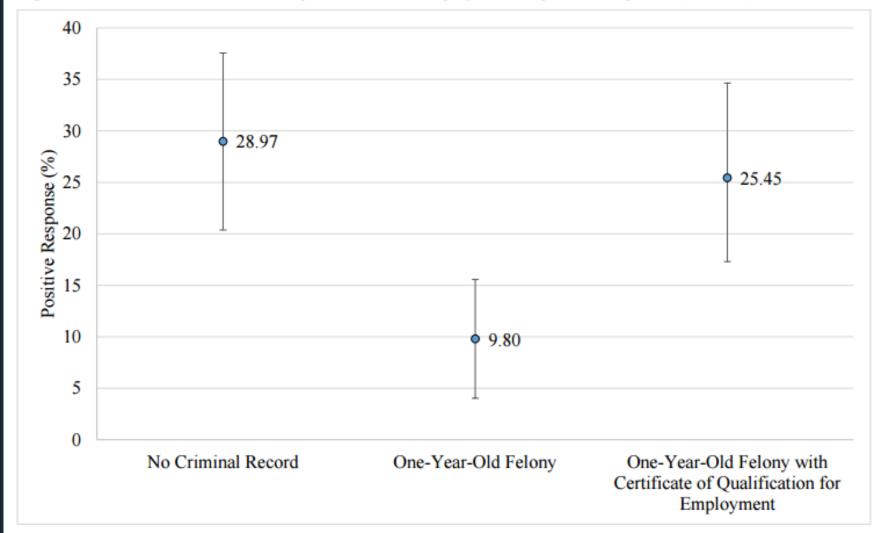
Peter Leasure & Tia Stevens Andersen, University of South Carolina, Department of Criminology and Criminal Justice

In Franklin County...



Recent study

Figure 1: The effect of certificates of qualification for employment on positive responses (N = 319)





Things to remember...

Mandatory restriction: absolutely prevents the person with the specific criminal record from working or being licensed in that field

The state agency / employer is required to individually assess someone with a CQE to determine whether they are fit for the job.

The CQE does not guarantee the job or license — it allows, but does not require, the agency to let you into this field of employment.

The CQE acknowledges that you are a **full-fledged citizen and positive community member**. It is evidence that you are **safe**, **rehabilitated**, and — most importantly — **not defined by your criminal record**.



Final thoughts...

- ► The more the merrier: Start applying, Dayton!
- ▶ **Be the ambassadors:** CQEs are new and the first batch of CQE holders need to know how to explain what they have.

TOTAL Granted CQEs in Ohio: ~450

~20 in Franklin County; ~130 in Hamilton County; ~110 in Cuyahoga County



Thanks!



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